Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the third periodic report of Tajikistan*

1. The Committee against Torture considered the third periodic report of Tajikistan (CAT/C/TJK/3) at its 1633rd and 1636th meetings, held on 4 and 7 May 2018 (see CAT/C/SR.1633 and CAT/C/SR.1636), and adopted the present concluding observations at its 1645th and 1646th meetings, held on 14 May 2018.

A. Introduction

2. The Committee welcomes the dialogue with the State party's delegation and the oral replies and written information provided in response to the concerns raised by the Committee.

B. Positive aspects

3. The Committee welcomes the accession to or ratification of the following international instruments by the State party:

(a) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 22 July 2014;

(b) The Convention on the Prevention and Punishment of the Crime of Genocide, on 3 November 2015.

4. The Committee welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including its adoption of:

(a) The Prevention of Domestic Violence Act, in 2013;

(b) The Act on Combating Trafficking in Persons and the Provision of Services for Human Trafficking Victims, in 2014;

(c) The revised Law on Refugees, on 26 July 2014;

(d) Amendments to article 479 of the Code of Criminal Procedure prohibiting the extradition of a person if there is evidence that he or she may be tortured, on 27 November 2014;

(e) The Children's Rights Act, on 18 March 2015;

(f) The new Constitutional Law on Nationality, on 8 August 2015;

* Adopted by the Committee at its sixty-third session (23 April–18 May 2018).

(g) Amendments to the Criminal Code, introducing the concept of "de facto detention", which begins the moment a person is taken into custody, and setting out a detention procedure, in 2016.

5. The Committee also welcomes the initiatives of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, which include:

(a) Establishing a joint working group for monitoring places of deprivation of liberty, under the Office of the Commissioner for Human Rights (the Ombudsman), to conduct visits to places of deprivation of liberty, in 2014, and developing a draft strategy for reform of the penal system for up to the year 2025;

(b) Adopting the State Domestic Violence Prevention Programme for the period 2014–2023;

(c) Dissolving the Council of Justice and transferring its powers to the Supreme Court, on 22 May 2016;

(d) Creating the post of the Commissioner for Children's Rights, who also serves as the deputy to the Commissioner for Human Rights (the Ombudsman), in 2016;

(e) Adopting a new national plan to combat trafficking in persons in Tajikistan for the period 2016–2018, on 27 July 2016;

(f) Approving, by order of the Procurator General, a manual for investigative officers of the military procurator's office and military personnel, aimed at preventing and investigating cases of hazing and abuse of power by officers, on 18 August 2016;

(g) Adopting a national plan of action to implement recommendations made during the second cycle of the universal periodic review, for the period 2017–2020, on 7 June 2017;

(h) Adopting the Programme for Reform of the Juvenile Justice System 2017–2021, with a view to bringing legislation and practice into line with international standards, on 29 June 2017.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

6. In paragraph 26 of its previous concluding observations (see CAT/C/TJK/CO/2), the Committee requested that Tajikistan provide further information regarding areas of particular concern identified by the Committee in paragraph 8 (a) and (b), on conducting prompt, impartial and effective investigations and establishing an official central register of arrests; in paragraph 9 (a), on ensuring and strengthening legal safeguards for detained persons; in paragraph 11 (c), regarding prosecuting suspects and sanctioning perpetrators of torture or ill-treatment; and in paragraph 14 (a), (b), (c) and (d), on improving conditions in all places of detention, eliminating the near-complete isolation of prisoners serving life imprisonment, ratifying the Optional Protocol to the Convention against Torture and setting up a national preventive mechanism, and establishing an effective and confidential system for receiving complaints of torture and ill-treatment in detention. The Committee expresses its appreciation for the State party's follow-up response on those matters and the substantive information, provided on 9 January 2014 (see CAT/C/TJK/CO/2/Add.1), and for the replies to its list of issues (CAT/C/TJK/Q/3/Add.1). However, in view of that information, the Committee considers that the recommendations included in paragraphs 8 (a) and (b), 9 (a), 11 (c) and 14 (a), (b), (c) and (d) mentioned above have not been implemented (see paras. 9–12, 17–18, 13–14 and 33–38 of CAT/C/TJK/CO/2/Add.1, respectively).

Impunity for torture and ill-treatment

7. Recalling its previous concluding observations (CAT/C/TJK/CO/2, para. 9), the Committee is concerned at allegations that torture and ill-treatment continue to be routinely practised by law enforcement officials in the State party, and at the data provided by the

State party indicating that while 89 complaints of torture had been received by the Office of the Procurator General since the Committee's previous review in 2012, only four individuals had been criminally convicted of torture under article 143 (1) of the Criminal Code and none of the sentences received by those individuals had exceeded three and a half years' imprisonment. While noting that the State party provided additional data on cases in which the Tajik authorities had prosecuted public officials for engaging in conduct amounting to torture or ill-treatment, using other articles of the Criminal Code, the Committee remains seriously concerned at the low proportion of criminal investigations opened into such allegations compared to the number of complaints of torture and ill-treatment received (arts. 2, 10, 11, 12, 13, 14, 15 and 16).

8. **The Committee reiterates its recommendation (see CAT/C/TJK/CO/2, para 9) that the State party should act urgently to combat a culture of impunity for torture and ill-treatment, including by ensuring that high-level government officials publicly and unambiguously affirm that torture will not be tolerated and that prosecutions will be initiated against anyone committing acts of torture or complicit or acquiescent in torture, including those with command responsibility.**

Investigation of acts of torture

9. As noted above, the Committee is concerned by the low percentage of complaints of torture and ill-treatment that have been made the subject of criminal investigations by the State party's authorities. Notwithstanding information provided by the State party concerning contradictory eyewitness accounts, the Committee is also deeply concerned by reports it has received of cases of alleged torture that have not resulted in criminal prosecution, including the 2015 death in police custody of Umar Bobojonov and the alleged torture in detention of Djovijon Khakimov while being held in incommunicado detention at the Ministry of Internal Affairs department on organized crime in January 2017. While noting the State party's assertion that its existing investigative mechanisms, such as the Office of the Ombudsman, satisfy its obligations under the Convention, and notwithstanding information provided by the State party concerning contradictory eyewitness accounts, the Committee is concerned that the efforts of existing mechanisms have not led to satisfactory results in these and other cases (arts. 2, 10, 11, 12, 13, 14, 15 and 16).

10. **The State party should:**

(a) **Establish a separate investigative mechanism or unit that is capable of carrying out effective criminal investigations and prosecutions of allegations of torture and ill-treatment committed by public officials and which operates independently both of the authorities accused of having perpetrated the crimes and of the authorities responsible for prosecuting the person alleging torture;**

(b) **Promptly, effectively and impartially investigate all incidents and allegations of torture and ill-treatment, prosecute those who are found to be responsible and report publicly on the outcome of such prosecutions.**

Information about investigations into allegations of torture

11. The Committee regrets that the State party did not provide information requested by it concerning the State party's efforts to investigate allegations by imprisoned opposition figures such as Mahmadali Hayit, Rahmatullo Rajab and Umarali Husaynov (also known as Saidumar Khusaini), all of whom were associated with the Islamic Renaissance Party of Tajikistan, that they were subjected to torture and other ill-treatment by officials of the Ministry of Internal Affairs department on organized crime, at the detention facility of the State Committee for National Security, following their arrest in 2015. The Committee is concerned that all details on the investigation and judicial review of their cases have been designated as "secret" (arts. 2, 12 and 13).

12. **The State party should take the necessary measures to publicize relevant facts related to any investigations undertaken into the allegations of torture and other ill-treatment, especially those made by individuals including Mahmadali Hayit, Rahmatullo Rajab and Umarali Husaynov (also known as Saidumar Khusaini).**

Sanctions for acts of torture

13. The Committee is concerned that the Criminal Code of the State party continues to provide for inappropriately low penalties for torture; that as a result of these low sanctions, the Criminal Procedure Code allows officials to terminate investigations into torture allegations "on the basis of repentance, conciliation with the victim", or "change of circumstances"; that the crime of torture is presently subject to a statute of limitations; and that despite the fact that the most recent amnesty adopted by the State party excluded perpetrators of torture as defined in Criminal Code article 143 (1) from eligibility, individuals prosecuted for acts amounting to torture under other articles of the Criminal Code were eligible for and received amnesties. The Committee notes the information provided by the State party that a proposed amendment to the Criminal Code, currently under consideration, would increase the maximum penalty for torture under article 143 (1) from five to eight years' imprisonment (arts. 2 and 4).

14. **The State party should take measures to ensure, as set out in the Committee's general comment No. 2 (2007) on the implementation of article 2, that the penalties for torture in its laws reflect the grave nature of the crime; that the crime of torture is not subject to any statute of limitations; and that perpetrators of torture are ineligible for amnesty under the Amnesty Act. The State party should also take measures to ensure that officials are not permitted under the Code of Criminal Procedure to terminate investigations into the crime of torture because the perpetrator has repented or reconciled with the victim. Furthermore, the State party should take measures to ensure that perpetrators of acts amounting to torture or ill-treatment are charged under article 143 (1) of the Criminal Code, and that they are not charged solely with other crimes which carry lower maximum penalties and which give eligibility for amnesty and are subject to statutes of limitations.**

Human rights Ombudsman

15. While noting that amendments to the Commissioner for Human Rights (Ombudsman) Act in 2012 allow for unimpeded access to places of deprivation of liberty, the Committee is concerned that the Ombudsman may not have, in practice, access to temporary pretrial detention facilities under the authority of the State Committee on National Security, to facilities run by the Ministry of Internal Affairs department on organized crime, or to facilities run by the Anti-Drug Agency, or to other places in which persons can be deprived of their liberty (and where they may be held in de facto incommunicado detention). The Committee is also concerned that the Office of the Ombudsman was given "B" status accreditation by the Global Alliance of National Human Rights Institutions in March 2012 for lack of full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including insufficient guarantees of independence and inadequate funding (art. 2).

16. **The State party should enable the Commissioner for Human Rights (Ombudsman) to access all places in which persons are deprived of their liberty, throughout the country, and to make his reports publicly available on a regular basis, including through a website. The independence and efficiency of the Office of the Ombudsman should be strengthened by ensuring adequate financial and staffing resources to enable it to carry out its mandate effectively and independently, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), with pluralism of staff and their selection by a clear, transparent and participatory process.**

Fundamental legal safeguards

17. While noting the legal amendments introduced in 2016, the Committee is concerned that detained persons do not enjoy, in practice, all the fundamental legal safeguards from the very outset of their deprivation of liberty, in particular after arrest by the police, and that domestic legislation does not provide the same level of protection for those detained on administrative charges as for those detained on criminal charges. It is also concerned at the practice still perpetuated by operative and investigative officers of informally inviting

persons for "conversations" or as witnesses to police stations in order to limit or prevent their contact with legal representatives and family members, who find themselves in unrecorded detention before official criminal charges are brought against them. The Committee also remains concerned that apprehended persons do not undergo an independent medical examination upon admission to police stations and temporary detention facilities, that an official central register is not maintained at all stages of detention and that the 72-hour period of pre-charge police custody has not been reduced to 48 hours (arts. 2, 12, 13 and 16).

18. **The State party should:**

(a) **Take effective measures to guarantee that all detained persons, including minors, are afforded in practice all the fundamental legal safeguards from the very outset of their deprivation of liberty, in accordance with international standards, including the safeguards mentioned in paragraphs 13 and 14 of the Committee's general comment No. 2 (2007) on the implementation of article 2. In particular, it should ensure that detainees have the following safeguards:**

(i) **To be informed about the charges against them and about their rights, both orally and in writing, in a language that they understand, and to sign a paper confirming that they have understood the information provided to them;**

(ii) **To have all periods of deprivation of liberty accurately recorded immediately after apprehension or arrest in a register at the place of detention, including for persons in administrative detention and those invited informally to police stations for "conversations" or as witnesses and who are subsequently detained without official status before official charges are brought against them, as well as in a central register of persons deprived of liberty, to have detention reports drawn up accordingly to prevent any cases of unrecorded detention, and to ensure access to the register of detainees by their respective lawyers and relatives;**

(iii) **To have prompt access to a lawyer from the very outset of deprivation of liberty, and, if necessary, to legal aid, including during the initial interrogation;**

(iv) **To receive a medical examination conducted confidentially by an independent doctor within 24 hours of arriving in a place of detention, and to have the right to request and receive, at any time, an independent medical examination. The State party should guarantee in practice the independence of doctors and other medical staff dealing with persons deprived of liberty, ensure that such staff duly document all signs and allegations of torture or ill-treatment, provide a copy of the results of the medical examination without delay to competent appropriate authorities for further investigation and make them available to the detained person concerned and his or her lawyer;**

(v) **To be able to notify a family member or any other person of their own choice of their detention immediately after apprehension and not only after seeing a judge;**

(b) **Bring all detained persons promptly before a judge, in line with international standards, and reduce the 72-hour period of pre-charge police custody;**

(c) **Start monitoring the effective implementation of these recommendations by collecting data on the performance of the police concerning the provision of fundamental safeguards to persons deprived of their liberty, including comprehensive data on cases in which police officers have been subjected to disciplinary or other measures for failing to respect such safeguards, and should provide this information in its next report to the Committee.**

Access to independent lawyers

19. The Committee is concerned that recent amendments to the Bar and Advocacy Act have given the Ministry of Justice undue influence over the qualifications commission responsible for licensing lawyers and have led to a dramatic drop in the number of lawyers

in the country, and that these developments are impeding the State party's ability to ensure that all people deprived of their liberty are able to access fundamental legal safeguards against torture and ill-treatment — including prompt access to an independent lawyer — in practice (art. 2).

20. **The State party should amend the Bar and Advocacy Act with a view to strengthening the independence of the qualifications commission from the Ministry of Justice. The Committee recommends that the State party invite the Special Rapporteur on the independence of judges and lawyers to visit the country.**

Retaliation against victims of torture and their families, human rights defenders, and journalists

21. The Committee is deeply concerned at allegations that individuals who complain of torture, members of their families, human rights defenders including lawyers representing victims of torture, and journalists reporting on allegations of torture frequently face reprisals by officials of the State party. In particular, the Committee is deeply concerned at the absence of response to requests for information regarding its efforts to investigate allegations that several human rights lawyers in the country appear to have been subjected to arrest after agreeing to represent high-profile clients in detention, who seemed to face a particularly acute risk of torture. The Committee regrets that in response to requests for information regarding its efforts to investigate these allegations, the State party denied that any such claims of reprisal had been received by the authorities and stated that any such allegations involving lawyers engaged in high-profile cases were unfounded (arts. 2, 11, 12, 13 and 16).

22. **The State party should, as a matter of urgency:**

(a) **Take measures to strengthen the ability of its public bodies to receive and investigate effectively claims of retaliation by officials against victims of torture, their family members, their lawyers, and journalists and human rights defenders;**

(b) **Undertake an independent investigation into allegations that human rights lawyers Shuhrat Kudratov, Buzurgmehr Yorov and Nuriddin Mahkamov were prosecuted in retaliation for their representation of detained members of the New Tajikistan Party and the Islamic Renaissance Party of Tajikistan, and that Firuz Tabarov was arrested and prosecuted in retaliation for his father's representation of Zayd Saidov, the leader of the New Tajikistan Party.**

Deaths in custody

23. The Committee is concerned at reports of several instances of death in custody, including suicides and deaths that occurred due to a high incidence of tuberculosis and HIV/AIDS among prisoners, and due to the lack of prompt screening on admission and lack of adequate medical care offered to ill prisoners, and at the large number of cases in which the penitentiary authorities have not issued reports on the causes of deaths in custody. The Committee also remains concerned about the outcomes of the investigation into the deaths of three persons: Kurbon Mannonov, Nozimdshon Tashirpov and Ismonboy Boboev (arts. 2, 12, 13, 14 and 16).

24. **The State party should:**

(a) **Continue taking measures to combat the spread of infectious diseases and implement vigorously harm reduction programmes in pretrial detention facilities and prisons in order to reduce the number of deaths from tuberculosis and the incidence of HIV/AIDS, including by screening for these diseases on admission to places of detention;**

(b) **Investigate promptly, thoroughly and impartially all incidents of death in custody, and ensure independent forensic examinations; provide autopsy reports to the family members of the deceased and, if requested, permit family members to commission private autopsies; and prosecute those responsible for violations of the Convention resulting in such deaths, and if they are convicted, punish them accordingly and provide compensation and redress to relatives of victims.**

Coerced confessions

25. The Committee is deeply concerned at allegations it has received that despite the fact that the State party's legislation indicates that confessions obtained by torture are to be declared inadmissible as evidence of guilt, judges do not request such information and the State party's courts do not implement this legislation in practice. The Committee regrets that the State party did not provide information requested on cases in which judges had acted on allegations by defendants concerning confessions compelled through torture (arts. 2, 15 and 16).

26. **The Committee recommends that the State party:**

(a) **Undertake a review of court cases in which defendants alleged that a confession presented as evidence of their guilt had been obtained through torture or other ill-treatment;**

(b) **Take measures to encourage judges to suspend prosecutions in cases where a defendant makes such allegations and to declare confessions to be inadmissible as evidence of guilt in cases where it is established that they were compelled through torture;**

(c) **Instruct procurators to act affirmatively in cases where defendants in criminal cases allege torture during judicial proceedings and to open investigations into the torture claims.**

Monitoring of places of deprivation of liberty

27. While noting that the State party has established a Monitoring Group to carry out visits to places of deprivation of liberty, the Committee is concerned at reports that the Monitoring Group does not have access to all places of detention in the State party, and that the Group has not been given access to specific detainees to follow up on complaints about torture or ill-treatment submitted to the Group by those detainees or their relatives. While appreciating that representatives of non-governmental organizations participate in the Monitoring Group, the Committee is concerned that non-governmental organizations are not permitted to monitor places of deprivation of liberty outside the context of the Monitoring Group. It is also concerned that the International Committee of the Red Cross does not have access to places of detention (arts. 2, 12, 13).

28. **The State party should:**

(a) **Ensure that the Monitoring Group can visit all places of detention, including pretrial facilities run by the State Committee for National Security, by the Agency on State Financial Control and the Fight against Organized Crime and by the Presidential Drug Control Agency;**

(b) **Ensure that the Monitoring Group has the capacity to regularly visit all places of deprivation of liberty in the State party, including psychiatric and psychoneurological institutions, and that during these visits it is accompanied by medical experts, including psychiatrists;**

(c) **Ensure that members of the Monitoring Group are able to speak confidentially with any detainee in any place of detention that it visits;**

(d) **Allow non-governmental organizations to undertake visits to all places of deprivation of liberty outside the context of the Monitoring Group;**

(e) **Provide the International Committee of the Red Cross with access to places of detention in the State party;**

(f) **Ratify the Optional Protocol to the Convention against Torture and establish a national preventive mechanism in accordance with the Optional Protocol.**

Non-refoulement

29. While welcoming the information provided by the State party on extraditions carried out by its authorities since 2012 and noting the 2014 amendments to the Code of Criminal

Procedure prohibiting the extradition of a person if there is evidence to suggest that he or she might be tortured, the Committee is concerned that the State party did not provide information it requested on the number of individuals deported from its territory, particularly to Afghanistan, since 2012. It is also concerned at reports it has received stating that individuals who have been deported to Afghanistan have not benefited from a refugee status determination procedure that could assess whether they face a risk of torture upon return. The Committee is further concerned at reports that its legislation presently provides that refugees who violate its laws concerning border crossing or the residence restrictions imposed on asylum seekers and refugees under resolutions 325 (2000) and 328 (2004), which list settlement areas in Tajikistan where temporary residence is prohibited to them, may face revocation of the refugee status they have been granted and expulsion from the country. It is concerned that members of the Hazara ethnic group from Afghanistan have been particularly singled out by the authorities and targeted for deportation (arts. 2, 3, 4, 5, 6 and 16).

30. **The State party should:**

(a) **Refrain from expelling, deporting, returning or extraditing any individual at risk of being subjected to torture upon return;**

(b) **Ensure that all individuals subject to expulsion, deportation, return or extradition have an opportunity for effective and impartial review by an independent decision-making mechanism of claims that they are at risk of being subjected to torture, and that the decisions of such a body have suspensive effect;**

(c) **Consider revising its legislation, especially resolutions 325 and 328, exempt asylum seekers from criminal responsibility for border crossing and penalties for violating residence restrictions that result in revocation of refugee status and deportation, in line with the provisions of the Convention relating to the Status of Refugees, of 1951, and resume cooperation with the Office of the United Nations High Commissioner for Refugees;**

(d) **Undertake prompt, effective investigations into allegations of ill-treatment of refugees and asylum seekers by State Committee for National Security agents, including discriminatory targeting of Hazara refugees from Afghanistan for deportation, and hold perpetrators accountable;**

(e) **Provide data and statistics in its next periodic report on the number of individuals deported from its territory.**

Training

31. The Committee is concerned that training on the provisions of the Convention, and in particular on the absolute prohibition of torture, is not mandatory for law enforcement officials, prison staff, judges, prosecutors, court officials, lawyers and military personnel (art. 10).

32. **The State party should ensure that training on the provisions of the Convention and on the absolute prohibition of torture should be mandatory for law enforcement officials, prison staff, judges, prosecutors, court officials, lawyers and military personnel. In addition, law enforcement officials should receive training on non-coercive investigation techniques, on the Code of Conduct for Law Enforcement Officials and on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should develop methodologies to assess the impact of these training programmes and adjust them in conformity with the professional training needs of the above-mentioned officials.**

Conditions of detention

33. While noting the improvements made during the period under review in places of deprivation of liberty, the Committee is concerned that conditions of detention — such as overcrowding, and inadequate material conditions of detention, including adequate food and drinking water, heating, ventilation, and sanitary and hygiene facilities, as well as treatment for transmissible diseases, and meaningful activities and outdoor exercise — do

not meet international standards. Of particular concern for the Committee are the conditions in the women's prison, where reports of staff shortages and of insufficient food and heat have been registered by the Monitoring Group (arts. 11 and 16).

34. **The State party should:**

(a) **Intensify its efforts to bring the conditions of detention in places of deprivation of liberty into line with international standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), by, inter alia, ensuring that detainees are provided with adequate material and hygienic conditions, including sufficient natural and artificial light; adequate sewage systems and sanitary installations, including toilets and showers; heated cells; sufficient ventilation; an adequate quality and quantity of food, bedding, blankets and items for personal hygiene; health care; outdoor activities; and family visits;**

(b) **Improve the material conditions and number of qualified staff in the women's prison, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(c) **Control the incidence of tuberculosis, and separate healthy prisoners from those suffering from contagious cases of tuberculosis in all detention facilities, provide specialized medical care to prisoners suffering from infectious diseases, and put in place appropriate measures to effectively prevent and control the further spread of tuberculosis and HIV/AIDS in pretrial detention facilities and penitentiary facilities, in particular by screening on admission.**

Independent complaints mechanism

35. The Committee notes with regret reports that it has received that non-governmental organizations documented nearly three times the number of complaints of torture and ill-treatment in 2013–2017 as were received by the appropriate government officials (arts. 2, 12 and 13).

36. **The State party should ensure that all persons, including those in detention, have access to a complaints mechanism through which they can transmit confidential allegations of torture or ill-treatment to the Ombudsman or another independent investigative authority that cannot be accessed by administrators of the place of deprivation of liberty in which they are held.**

Prisoners serving life sentences

37. The Committee is concerned about the restrictive conditions of detention for persons sentenced to life imprisonment, which are imposed through a special prison regime, and about their material conditions which are especially harsh compared with those of the general prison population. It is also concerned at the fact that this category of prisoners is housed in pretrial facilities, which offer very limited opportunities for contact with the outside world (arts. 2, 11 and 16).

38. **The State party should:**

(a) **Ensure, with a view to preventing the deterioration of their mental faculties and social abilities, that prisoners serving life sentences have access to a regime of organized and purposeful out-of-cell activities;**

(b) **Take measures to integrate prisoners serving a life sentence into the general prison population;**

(c) **Consider amending the Penal Enforcement Code to review the special regime for persons serving a sentence of life imprisonment.**

Juvenile justice

39. While noting the adoption of the Programme for Reform of the Juvenile Justice System 2017–2021 and the existing capacity-building programmes on juvenile justice, the Committee is concerned that the juvenile criminal justice system lacks juvenile courts and judges who specialize in juvenile justice. It is also concerned about reports that children are frequently placed in pretrial detention and isolation cells in the juvenile colony as a disciplinary measure; and that cases of ill-treatment, including corporal punishment, continue to be reported and there are no effective complaints mechanisms available for detained minors (arts. 11, 12 and 16).

40. **The Committee urges the State party to:**

(a) **Establish an effective and well-functioning juvenile justice system that is in compliance with international standards, including with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);**

(b) **Bring its legislation and practice on solitary confinement into line with international standards by abolishing the solitary confinement of juveniles both in law and in practice;**

(c) **Take effective measures to prevent ill-treatment and corporal punishment of children in detention, including by investigating such acts and ensuring that appropriate disciplinary or penal measures are taken and by establishing a complaint mechanism for minors detained in pretrial and correctional facilities;**

(d) **Strengthen existing and develop new educational and rehabilitation programmes aimed at reducing juvenile recidivism and encouraging prosocial behaviour, and provide adequate meaningful activities conducive to their social integration;**

(e) **Reduce the use of pretrial detention for juveniles and use non-custodial measures, in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).**

Redress and rehabilitation

41. While noting that the law provides for the possibility of awarding compensatory damages, the Committee is concerned that punitive damages and reparation for torture and ill-treatment currently do not exist, and that in practice, victims of torture do not receive fair and adequate compensation. It is also concerned that, within the criminal procedure, victims are eligible to file a complaint for redress only after perpetrators of torture have been charged. The Committee is concerned at reports that it takes a long time to receive compensation and that the amounts awarded for moral damage have been progressively decreasing, especially the amounts of compensation allocated to victims of ill-treatment and torture within the armed forces (art. 14).

42. **The State party should:**

(a) **Ensure that victims of torture obtain redress and rehabilitation and have an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible by formulating a detailed rehabilitation programme. The Committee draws the attention of the State party to the Committee's general comment No. 3 (2012) on the implementation of article 14 of the Convention, in which the Committee explains the content and scope of the obligations of States parties to provide full redress to victims of torture and recommends amending the domestic legislation accordingly;**

(b) **Ensure that the programme offers specialized rehabilitation services that are appropriate, available and promptly accessible, in accordance with general comment No. 3, and ensure that access is not conditional on the filing of formal administrative or criminal complaints;**

(c) **Designate a specific lead coordinating agency at the country level for the implementation of the rehabilitation programme and make clear and adequate budgetary provisions for the programme to function as a specialized service.**

Corporal punishment of children

43. The Committee is concerned at the absence of amendments to national legislation to prevent all corporal punishment of children, particularly in public institutions, by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity that engages the State's responsibility under the Convention (arts. 2 and 16).

44. **The State party should amend national legislation in order to clearly prohibit and prevent all corporal punishment of children, in particular in public institutions, through acts or omissions by State agents and others who engage the State's responsibility under the Convention. It should promote non-violent disciplinary methods in education and in bringing up and caring for children, through awareness-raising and public education campaigns about the harmful effects of corporal punishment.**

Hazing, ill-treatment and torture in the armed forces

45. While noting the inspections of military units carried out by the Central Military Procurator's Office, the establishment of hotlines and boxes for complaints, the installation of closed-circuit television systems in all units and the adoption of the violence prevention concept, the Committee is concerned at reports of a large number of cases of violence, including sexual, physical and verbal abuse, in the military, which has sometimes resulted in serious injuries (arts. 2 and 16).

46. **The State party should:**

(a) **Reinforce measures to prohibit and eliminate violence and abuse, including sexual, physical and verbal abuse, in the military and ensure prompt, impartial and thorough investigation of all allegations of hazing, ill-treatment or torture in the military, and establish the liability of direct perpetrators and those in the chain of command, and prosecute and punish those responsible with penalties that are consistent with the gravity of the act committed;**

(b) **Ensure that servicemen can submit complaints confidentially in order to protect them from reprisals and that their complaints are promptly passed on to the military prosecutors' offices for investigation;**

(c) **Ensure access for the Ombudsman and the Monitoring Group to carry out unannounced monitoring visits to all military units and conduct confidential interviews with conscripts;**

(d) **Provide redress and rehabilitation to victims, including through appropriate medical and psychological assistance, in accordance with the Committee's general comment No. 3.**

Violence against women

47. Although the State party reported that its Criminal Code covers "crimes associated with domestic violence", which include deliberate infliction of bodily injury (art. 113), assault (art. 116) and torture (art. 117), the Committee is concerned that the State party reported that 454 criminal cases were opened from 2015 to 2017 following reports of all the above-mentioned forms of violence against women, but did not clarify in how many of those cases alleged perpetrators were actually charged and/or prosecuted for torture (art. 117) and in how many they were charged and prosecuted for other crimes. The Committee is also concerned at actions or omissions by State agents and others who engage State responsibility in accordance with the Convention regarding reliable reports that many police officers refuse to record or consider complaints of violence against women, and do not investigate further, frequently trying instead to persuade the complainants to reconcile with the perpetrators. The Committee regrets the reports that, as a result, prosecutions and

convictions are rare, often also because many judges refuse to request medical examinations when complainants allege physical abuse or rape, due to the lack of independent forensic and/or medical examinations, especially in rural areas and remote regions. While appreciating the State party's initiatives to establish a pilot programme to enable specialized units of police officers to work in 10 neighbourhoods, the Committee remains concerned that neither marital rape nor domestic violence are criminal offences in the State party (arts. 2, 12, 13, 14 and 16).

48. **The Committee recommends that the State party:**

(a) **Collect comprehensive statistics on all forms of violence against women through acts or omissions by State agents and others who engage the State's responsibility under the Convention, and provide the Committee with information on the number of officials who have been charged, prosecuted and punished for acts of torture or ill-treatment or other crimes under the Criminal Code;**

(b) **Strengthen its efforts to ensure that the police respond appropriately to complaints of all forms of violence against women and to establish an effective and independent complaint mechanism for victims of violence, and ensure that all allegations of violence are registered and are promptly, impartially and effectively investigated, and that the perpetrators are prosecuted, and if convicted, are punished with commensurate sanctions;**

(c) **Amend legislation to facilitate the prosecution of perpetrators of all forms of violence under criminal law;**

(d) **Provide mandatory training to all law enforcement officials, judges and others who interact with victims of all forms of violence against women and ensure that all such victims obtain redress.**

Situation of lesbian, gay, bisexual, transgender and intersex persons

49. The Committee is concerned that lesbian, gay, bisexual, transgender and intersex persons continue to be subjected to torture, ill-treatment, sexual abuse, arbitrary detention, blackmail and extortion by police or at the instigation of or with the consent or acquiescence of public officials or other persons acting in an official capacity, and that they are subjected to reprisals when they lodge complaints (arts. 12, 13, 14 and 16).

50. **The State party should fulfil its national and international legislative obligations concerning equality before the law as they apply to the protection of lesbian, gay, bisexual, transgender and intersex persons and develop legislation in this regard. It should publicly condemn acts of torture and other types of abuse against them, in particular by public officials or other persons acting in an official capacity. The State party should act promptly on complaints regarding cases of torture and abuse against lesbian, gay, bisexual, transgender and intersex persons, investigate and prosecute them, ensure that they do not give rise to reprisals and provide redress to the victims.**

Follow-up procedure

51. The Committee requests the State party to provide, by 18 May 2019, information on follow-up to the Committee's recommendations on investigating acts of torture, the enjoyment of fundamental legal safeguards, and hazing, ill-treatment and torture in the armed forces (see paras. 10, 18 and 46 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

52. **The Committee reiterates its recommendation (CAT/C/TJK/CO/2, para. 24) that the State party consider making the declarations under articles 21 and 22 of the Convention.**

53. **The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet party.**

54. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

55. **The Committee requests the State party to submit its next periodic report, which will be its fourth, by 18 May 2022.**